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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,641	08/19/2003	Kent A. Hellebust	6541-66109	5484

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KLARQUIST SPARKMAN, LLP
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EXAMINER

NGUYEN, NAM V

ART UNIT	PAPER NUMBER
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2612

MAIL DATE	DELIVERY MODE
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01/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

5/1

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/644,641

Applicant(s)

HELLEBUST ET AL.

Examiner

Nam V. Nguyen

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: 51 and 55.
- Claim(s) rejected: 24, 27-39, 41, 43-51, 53 and 54.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Referring to claims 24, 27, 29-39, 43-49, 51 and 53-54, Janow discloses the unified message announcing system includes a pager 21 to receive a voice, e-mail and plurality of other types of electronic messages (column 3 lines 4 to 21; see Figure 1). The pager 21 receives a plurality of messages of a first format (i.e. a voice messaging 10) and receives messages of a second format (i.e. e-mail messaging 11) (column 3 lines 53 to 53; see Figure 1). Clearly, the pager 21 receives a plurality of messages of a plurality of types of messaging. Furthermore, Deluca et al. and Segur disclose a memory configured to receive at least one message-classification rule input into the memory by a user of the wireless device, the message-classification rule being at least for prioritizing the messages. Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognize a memory contains a message classification rule being at least for prioritizing the messages taught by Segur in a unified message announcing multi-service device of Janow in view of Deluca et al. because prioritizing the message in the memory would create the unified message announcing multi-service notifier device to display the relevant information in a short period of time.

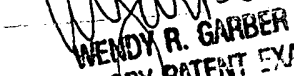
In the response, the Applicant expresses frustration that the examiner did not contact the Applicant after consideration of the previous amendment. The examiner respectfully directs the Applicant's attention to the relevant sections of the MPEP.

Initially, please see §713, which among other things notes that Applicant Initiated Interviews are scheduled *in advance* with the examiner along with a proposed agenda so that the examiner may prepare prior to the interview. Importantly, please note that "[w]here the reply to a first complete action includes a request for an interview, a telephone consultation to be initiated by the examiner, or a video conference... the examiner, as soon as he or she has considered the effect of the reply, *should grant such request if it appears that the interview or consultation would result in expediting the case to final action*" (MPEP §713 III). In other words, the applicant's request, if found in a reply to a complete action, is not automatically granted. The decision as to whether or not the interview will ultimately be granted lies completely with the examiner.

With this, please see §408 of the MPEP which states that "[e]xaminers are not required to note or acknowledge requests for telephone calls or state reasons why such proposed telephone interviews would not be considered effective to advance prosecution". Thus, the examiner's failure to acknowledge the Applicant's request is not contrary, and is in fact in compliance, with the MPEP.

The Applicant may contact the examiner to schedule an interview once the Applicant has received the examiner's substantive action, as long as such request is in compliance with the MPEP.

Furthermore, the amendment filed on July 10, 2006 to amended claims 24, 37, 44 and 51 adding a new limitation that has been fully considered. The applicant's arguments with respect to claims 24, 37, 44 and 51 filed July 10, 2006 have been fully considered but are moot in view of the new grounds of rejection. Therefore, the finality of the Office action was not premature.


WENDY R. GARBER
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